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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)	
		800.0324.U1(US)	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]		Application Number	Filed
on <u>9/19/2011</u>		10/069,403	2/26/2002
Signature <u>Elaine F. Mian</u>		First Named Inventor	
Typed or printed name <u>Elaine F. Mian</u>		Timo Haataja	
		Art Unit	Examiner
		3691	Poinvil, Frantzy
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the		<u>Ricardo Ochoa</u>	
<input type="checkbox"/> applicant/inventor.		Signature	
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)		<u>Ricardo Ochoa</u>	
<input checked="" type="checkbox"/> attorney or agent of record.		Typed or printed name	
Registration number <u>61,545</u>		<u>203 925-9400</u>	
		Telephone number	
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34.		<u>9/19/2011</u>	
Registration number if acting under 37 CFR 1.34 _____		Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			

☐ *Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE U.S. PATENT AND TRADEMARK OFFICE

In re U.S. Patent Application of:

APPLICANTS: Haataja, et al.

SERIAL NO.: 10/069,403

FILING DATE: February 26, 2002

EXAMINER: Poinvil, Frantzy

ART UNIT: 3691

ATTORNEY'S DOCKET NO.: 800.0324.U1 (US)

TITLE: CHARGING FOR PREPAID SUBSCRIBERS IN A TELECOMMUNICATION
SYSTEM

Mail Stop AF

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW ATTACHMENT

Sir:

The following is a concise recitation of at least one **clear error** by the Examiner in continuing to reject claims for the above-captioned U.S. Patent Application, e.g., in the Final Office Action mailed on 21 June 2011. In the present application, claims 26-48 are pending. Claims 26-29, 33-38 and 42-44 are rejected. Claims 30-32 and 39-41 are objected to. Claims 45-48 are allowed. Claims 1-25 have been previously canceled.

The Examiner has rejected claims 26-29, 33-38 and 42-44 as being unpatentable under 35 U.S.C. § 103(a) over Walker (U.S. Pat. No. 5,825,863), herein Walker, in view of Block (U.S. Pat. No. 5,960,416), herein Block. The Applicant includes the following comments to clearly distinguish the claimed invention over the art cited by the Examiner, and respectfully requests a favorable reconsideration of claims 26-29, 33-38 and 42-44.

In accordance with the MPEP, the Examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness. The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Examiner must ascertain the differences between the claimed invention and the prior art. However, the gap between the prior art and the claimed invention may not be so great as to render the claim nonobvious (see MPEP § 2141-2142).

Regarding claim 1, the Examiner acknowledges that Walker does not describe “a request indicates a particular tariff scheme from a plurality of tariff schemes, where a tariff scheme defines how calls are to be charged” as in claim 26. Accordingly, Walker does not disclose or suggest actions (e.g., “setting a current tariff scheme... to be the particular tariff scheme”) being performed based on the “particular tariff scheme” **in the request**.

The Examiner asserts that Block teaches “a request indicates a particular tariff scheme from a plurality of tariff schemes, where a tariff scheme defines how calls are to be charged” referring to “column 12, lines 53-56, column 8, lines 7-11”. Assuming, arguendo, that Block teaches a request that “indicated a particular tariff scheme from a plurality of tariff schemes” (which the Applicants do not so assert), there is no disclosure or suggestion that such a request is specifically a “request to credit a prepaid account” or how such a “request to credit” which “indicated a particular tariff scheme from a plurality of tariff schemes” should be processed.

Consider the disclosure of Block at col. 7. Line 62 – col. 8, line 14 and col. 12, lines 42-56. As described, the “CO switch 120” “requests and receives the calling subscriber number”, thus, the “CO switch 120” request information (“the calling subscriber number”). There is no disclosure or suggestion that the request for “the calling subscriber number” is a “request to credit a prepaid account associated with a subscriber” as in claim 26. Rather, the request for “the calling subscriber number” is described as part of a “real time billing process”. There is no disclosure or suggest that the **request** itself “indicates a particular tariff scheme”. Clearly, a request for “the calling subscriber number” is not analogous to a “request to credit a prepaid account associated with a subscriber” that “**indicates a particular tariff scheme** from a plurality of tariff schemes” as in claim 26.

Assuming, arguendo, that the “Class of Service” is analogous to a “tariff scheme” (which the Applicants do not so assert), it is unclear where Block is suggested as teaching that the “COS” is set “in response to crediting the prepaid account according to the request”. Rather, Block teaches the “COS” may be altered “in accordance with a predetermined service

provider policy" (e.g., based on "pulses used"), "linked to special promotions or discounts", "when usage reaches a certain level" or based on various use limits/credits (e.g., "PUL"/"SUL" and "PUC"/"SCL"). However, there is no disclosure or suggestion that the change in the "COS" is performed based on crediting any account.

Additionally, it is unclear where Block is suggested as teaching a request that indicates a "Class of Service (COS)".

Consider further col. 30, lines 59-67 of Block. As described, a subscriber authorizes a charge "to avoid interruption of service", for example, the case where "use equals the PUL/SUL or the PUC/SCL" and the "Class of Service (COS) provided to the subscriber" is "altered". Assuming, *arguendo*, that the authorization of a charge is analogous to crediting an account (which the Applicants do not so assert), "crediting" the account is performed to prevent a change of "COS" (for example, when a PUL/SUL or PUC/SUC reaches a predetermined amount). Clearly, Block does not disclose or suggest "in response to **crediting** the prepaid account according to the request, **setting** a current tariff scheme associated with the subscriber to be the particular tariff scheme" indicated in the "request to credit" as in claim 26.

The Examiner asserts that Block teaches "that a subscriber by making a **prearrangement** for a particular class of services, request a particular tariff scheme fro [sic] a plurality of tariff schemes, where a tariff scheme defines how calls are to be charged. See column 26, line 54 to column 27, line 45". The cited portion of Block describes "FIG. 8" which "illustrates an exemplary real time charge routine".

Assuming, *arguendo*, that Block describes "a particular class of services" which is analogous to "a tariff scheme" that "defines how calls are to be charged" (which the Applicants do not so assert), the subscriber has made a "prearrangement" for the "COS". Thus, there is no suggestion that the "COS" is set based on "a particular tariff scheme" indicated in a "request to credit". Rather, the "COS" is established based on a "prearrangement".

In the Response to Arguments section, the Examiner acknowledges that Block is not cited “to denote teachings associated with a prepaid account”. Rather, Block is suggested as teaching “a plurality class of services that a client can use to make particular calls”. The Examiner further summarizes by stating “Walker teaches a prepaid account and that Block has been applied to denote teachings of a tariff scheme or particular class of service calls” and that to combine “Block with Walker in order to appropriately bill a prepaid account based on calls made according to a prearrangement of a service request”.

However, there is no explanation regarding how the teachings of a “prepaid account” and multiple “tariff scheme” may be combined to teach that a “request to credit a prepaid account” “indicates a particular tariff scheme from a plurality of tariff schemes” and as a consequence of such a “request to credit a prepaid account” the “tariff scheme” associated with the account is then set to the “particular tariff scheme” indicated in the request.

Even if one could combine Walker and Block (which the Applicants do not assert there is a motivation to so combine or that such a combination is feasible), the resulting combination would not make obvious the claim 26. While the hypothetical combination might allow for “real time subscriber billing” (see Abstract of Block) in a system that enables “prepayment of telephone call charges in connection with a calling-card” (see Abstract Walker), there is no disclosure or suggestion that a “prepayment” would cause the system to alter the way the subscriber is “billed” (e.g., changing the billing rates applied).

As neither Walker nor Block disclose or suggest “a request to credit a prepaid account” “indicates a particular tariff scheme from a plurality of tariff schemes” and “setting a current tariff scheme... to be the particular tariff scheme” “in response to crediting the prepaid account according to the request” as in claim 26, the combination of Walker and Block (which the Applicants do not assert there is a motivation to so combine or that such a combination is feasible), herein Walker-Block, also does not disclose or suggest these elements of claim 26. As Walker-Block does not disclose or suggest all elements of claim 26, claim 26 is not made obvious by Walker-Block. For at least this reason, claim 26 is in condition for allowance.

As claim 35 recites similar language to that discussed above with reference to claim 26; claim 35 is likewise in condition for allowance. Claims 27-29, 33-34, 36-38 and 42-44 depend upon claims 26 and 35. For at least this reason, they are likewise in condition for allowance. However, in order to fully address the Examiner's rejections regarding the dependent claims, the Applicants submit the comments below.

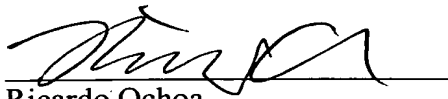
Regarding claim 33, where two requests each indicate a "particular tariff scheme" which in response to each request is set as "the current tariff scheme associated with the subscriber". Thus, as claimed, the "current tariff scheme" is set twice, once in response to the "first request" and then again in response to the "second request".

The Examiner argues that "A particular customer may enroll in a new plan or updates and/or add funds to a particular plan". However, there is no explanation regarding how the teachings of Block and Walker are interpreted to teach two "tariff schemes" being set twice for the same account in response to two "requests to credit" the account.

For example, how is Walker-Block suggested to teach that a customer may "enroll in a new plan" when sending a "request to credit" an account?

In view of the foregoing showing of at least one **clear error** that is inherent in the Examiner's rejection, the participants of the Pre-Appeal Conference are respectfully requested to reconsider and remove the rejections based on Walker-Block to claims 26-29, 33, 38 and 42-44

Respectfully submitted:


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9/19/11
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